

Senate Bill No. 376

CHAPTER 210

An act to add Article 2.7 (commencing with Section 71639) to Chapter 2 of Part 5 of Division 20 of the Water Code, relating to water.

[Approved by Governor September 6, 2005. Filed with
Secretary of State September 6, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 376, Soto. Three Valleys Municipal Water District: standby charge authority.

The existing Municipal Water District Law of 1911 authorizes a municipal water district, by ordinance or resolution, as specified, to impose an annual water standby assessment or availability charge in any portion of the district to which the water is made available by the district, whether the water is actually used or not. The existing Uniform Standby Charge Procedures Act generally authorizes a local agency that is authorized to provide water service to impose, in any given year and in accordance with prescribed procedures, a water standby charge on land to which water service is made available by that local agency. Article XIII C and Article XIII D of the California Constitution subject local governmental entities to various requirements prior to imposing or increasing certain taxes, fees, or assessments.

This bill would authorize the Three Valleys Municipal Water District, by resolution, to adopt an assessment with a schedule of annual adjustments, and to adjust the amount of an assessment in a specified manner, if certain conditions are met. The bill would impose prescribed notice and hearing requirements. The bill would state that, for the purposes of those constitutional provisions, the district has not increased an assessment if the district adjusts an assessment in a specified manner.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The Three Valleys Municipal Water District (TVMWD) is located in eastern Los Angeles County and is a member public agency of the Metropolitan Water District of Southern California (MWD). TVMWD distributes at wholesale to approximately 14 retail agencies imported water made available from the Colorado River and the State Water Project.

(b) In or about July 1995, MWD began assessing each of its member public agencies a readiness-to-serve (RTS) charge for the purpose of generating firm revenues to pay for debt service on MWD's capital

improvement program. As of the 2002–03 fiscal year, the amount of the RTS charge imposed on TVMWD by MWD totaled approximately three million one hundred fifty thousand dollars (\$3,150,000).

(c) Prior to the levy of the RTS charge, MWD had a standby charge in place. When the RTS charge was imposed, MWD member public agencies were allowed an option to have MWD continue collecting the standby charge to help offset a portion of the RTS charge. TVMWD exercised this option, and the MWD standby charge covers about one million eight hundred thousand dollars (\$1,800,000) of TVMWD's annual RTS obligation. Thus, TVMWD is in need of a means for collecting the remainder of the RTS charge not covered by the MWD standby charge.

(d) A standby charge is the most appropriate mechanism to fully finance the portion of the RTS charge not funded by the MWD standby charge because the recognized purpose of a standby charge is to generate sufficient funds to pay for the types of water-related services intended to be financed by MWD's RTS charge, and because the imposition of a standby charge is consistent with the manner in which MWD itself has treated the assessment responsibilities for its own RTS charge. Otherwise, TVMWD would be required to continue to fund the RTS shortfall by increasing its water rates to its retail agencies.

(e) Thus, on July 10, 1996, TVMWD's board of directors adopted a resolution that established a standby charge designed to fund MWD's RTS charge and related administrative costs incurred by TVMWD in connection therewith. The resolution expressly provided that the standby charge was based upon the report of a qualified engineer which fixed the amount of the standby charge for the 1996-97 fiscal year at five dollars and ninety-two cents (\$5.92) per equivalent dwelling unit (EDU). Further, the engineer's report provides for the adjustment of that standby charge during subsequent fiscal years according to the actual amount by which the RTS charge increases, and subject to a maximum assessment amount of twenty-nine dollars and forty-one cents (\$29.41) per EDU.

(f) Thereafter, on November 5, 1996, Proposition 218 was approved by the voters, which added Article XIII C and Article XIII D to the California Constitution. TVMWD's standby charge is subject to Section 4 of Article XIII D which details the procedures and requirements that an agency is required to follow for the levy of all assessments. As a result, TVMWD has been required to readopt its standby charge each fiscal year at the original rate of five dollars and ninety-two cents (\$5.92) per EDU. Consequently, TVMWD has only received approximately one million dollars (\$1,000,000) each year through the collection of its standby charge at the five dollars and ninety-two cents (\$5.92) per EDU rate. After deducting the one million eight hundred thousand dollars (\$1,800,000) contribution attributable to the MWD standby charge from the total RTS liability of three million one hundred fifty thousand dollars (\$3,150,000) for the 2002-03 fiscal year, TVMWD has been required to collect the remaining unfunded amount of nearly three hundred fifty thousand dollars

(\$350,000) in the 2002-03 fiscal year through increased water rates charged to its retail agencies.

(g) Consequently, this act is necessary in order to achieve the desired objectives of ensuring a fair and adequate mechanism to generate revenue to pay MWD's RTS charge and preventing the need for TVMWD to cause rate increases to be levied on current water users who would be subsidizing the owners of vacant property within TVMWD for the cost of having MWD and TVMWD ready, willing, and available to provide water service to their parcels.

SEC. 2. Article 2.7 (commencing with Section 71639) is added to Chapter 2 of Part 5 of Division 20 of the Water Code, to read:

Article 2.7. Standby Assessments

71639. (a) This article applies to the Three Valleys Municipal Water District.

(b) Notwithstanding any other provision of law, the district, by resolution, may adopt an assessment with a schedule of annual adjustments, and adjust the amount of an assessment in accordance with this section, if the adjustment is made in the same manner as provided for taxes, fees, and charges in subparagraph (A) or (B) of paragraph (2) of subdivision (h) of Section 53750 of the Government Code.

(c) The district shall cause notice of the intent to adopt the resolution to be published pursuant to Section 6066 of the Government Code prior to the date set for the adoption of the assessment, and shall hear any and all objections at the time and place set forth in the notice. The district, at the time and place specified in the notice, shall conduct the hearing and consider all objections to the assessment. Thereafter, the district may adjust the assessment, if all of the following conditions are met:

(1) The amount of the assessment does not exceed twenty-nine dollars and forty-one cents (\$29.41) per equivalent dwelling unit.

(2) The revenue raised by the assessment, including its annual adjustments, is used exclusively to fund the readiness-to-serve charge, or equivalent charge, imposed upon the district by the Metropolitan Water District of Southern California, and related administrative costs.

(3) The district adjusts its water rates to its retail agencies by an amount necessary to prevent surplus funding of the readiness-to-serve charge imposed upon the district by the Metropolitan Water District of Southern California.

(d) For the purposes of Article XIII C and Article XIII D of the California Constitution, the district has not increased an assessment if the district adjusts an assessment in the same manner as provided for taxes, fees, and charges in subparagraph (A) or (B) of paragraph (2) of subdivision (h) of Section 53750 of the Government Code.

SEC. 3. The Legislature finds and declares that this act, which is applicable only to the Three Valleys Municipal Water District, is

necessary because of unique and special problems in that district. It is, therefore, hereby declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable to the district and the enactment of this special law is necessary for the public good.

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